REMARKS / ARGUMENTS

Rejections under 35 U.S.C 103(a) based upon Mao in view of Shabtay

In the Final Office Action, Examiner rejects pending claims 1, 2, 5-8, 10, 11, 14-17 and 19 under 35 U.S.C 103(a) as being unpatentable over U.S. Patent Publication No. 2003/0088876 (Mao) in view of U.S. Patent Publication No. 2002/0120743 (Shabtay).

Examiner asserts that regarding claims 1 and 10, Mao teaches a data acquisition source management method for a video on demand (VOD) gateway. Examiner first asserts that Mao teaches the following limitation of claim 1:

> generating a source list identifying a set of acquisition sources coupled to a Real-time Multimedia Data On Demand (RTMDOD) server;

Examiner explicitly asserts in point 3 on page 2 of the Final Office Action that Mao teaches the generation of a source list that identifies a set of acquisition sources, and Examiner further asserts that such acquisition sources identified by a source list of Mao are "multiple VOD systems 30, 50, and 60 in Figure 2A."

Examiner further asserts on page 3 of the Final Office Action that Mao teaches the provision of a source list that identifies a set of acquisition sources to a data requestor system.

Applicant submits that Mao fails to teach the generation of and provision to a data requestor system any type of list that identifies a set of *sources* from which data can be provided. Rather, Mao teaches the generation of a list of videos that are available from a set of VOD servers, without teaching, suggesting, or leading anyone of any skill in the art to or toward any type of list that identifies the actual sources, that is, any specific VOD servers themselves, from which videos are available. In accordance with Mao, any recipient of any type of list of videos remains blind as to the physical sources (that is, the identities of the VOD servers) from which such videos can be provided or acquired.

Examiner acknowledges on page 4 of the Final Office Action that "Mao *does not* explicitly teach of generating a source list identifying a set of acquisition sources but generating data list available from acquisition sources." Thus, Examiner acknowledges that Mao fails to teach generating a source list identifying a set of acquisition sources from which data can be provided, in accordance with Applicant's submission of such failure by Mao.

Examiner additionally states that Mao teaches the following:

> receiving a list request from a data requestor system...

> providing the source list to the data requestor system in response to the list request...

Applicant submits that since Mao fails to teach the *generation* of a source list that identifies a set of acquisition sources, Mao correspondingly fails to teach the *provision* of any type of source list identifying a set of acquisition sources to a data requestor system.

Examiner subsequently asserts that per Shabtay's Abstract, Shabtay teaches a method of connecting a client to a server by a load balancer associated with a plurality of servers, including "selecting a server to service the client." Examiner further asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Shabtay with Mao in order to "efficiently select a source" such as a server prior to requesting service from the source. Examiner has apparently equivocated Shabtay's plurality of servers with Applicant's claimed set of acquisition sources.

Shabtay teaches a load balancer that acts as an intermediary between the client and a plurality of servers, and which automatically selects a server to service the client, such that the client remains blinded as to which server is selected by the load balancer. Paragraph 0007 of Shabtay explicitly indicates how a server is selected to service a client, as follows:

> "When a first packet of an HTTP request message is received by the load balancer, the load balancer selects a server to receive the request message and the packet is

immediately forwarded on a previously established TCP connection between the load balancer and the selected server."

Thus, Shabtay's load balancer automatically selects a server to service a client request. The client remains blind as to the identity of the server or any type of acquisition source that the load balancer has selected or can select to service the client request. *More particularly, Shabtay's load balancer never receives from a client a data request that includes client identification of a first server within a source list identifying a set of servers from which data can be provided.*

Applicant has amended claim 1 to recite a data acquisition source management method comprising:

> generating a source list identifying a set of acquisition sources coupled to a Realtime Multimedia Data On Demand (RTMDOD) server, each acquisition source within the set of acquisition sources for provision of data therefrom;
>
> receiving a list request from a data requestor system in data communication with the RTMDOD server, the data requestor system distinct from the set of acquisition sources and the RTMDOD server;
>
> *providing to the data requestor system in response to the list request the source list identifying each acquisition source* available for provision of data;
>
> *receiving a data request from the data requestor system* at the RTMDOD server, *the data request including data requestor identification of a first acquisition source within the source list*;
>
> transmitting a data acquisition request from the RTMDOD server to the first acquisition source in response to the data request; and
>
> initiating the transmission of data at the first acquisition source in response to the data acquisition request.

Thus, claim 1 as amended specifically recites the following:

> *providing to the data requestor system* in response to the list request *the source list identifying each acquisition source* available for provision of data;
>
> *receiving a data request from the data requestor system* at the RTMDOD server, *the data request including data requestor identification of a first acquisition source within the source list*;
>
> transmitting a data acquisition request from the RTMDOD server to the first acquisition source in response to the data request

No client in Shabtay is provided with a list of acquisition sources from which data can be provided, and no load balancer in Shabtay receives from any client any type of data request that includes client identification of a first acquisition source from within such a list of acquisition sources.

Furthermore, no load balancer in Shabtay transmits a data acquisition request to the first acquisition source in response to a data request received from a client, where the data request received from the client includes *client identification of the first acquisition source within a list of acquisition sources provided to the client.* Were any load balancer to a) rely upon receipt of a data request from a client, where the data request includes *client identification of a first server with a source list* that identifies servers from which data can be provided, and b) transmit a data acquisition request to the first server in response to such a client data request that included *client identification of the first server*, such a load balancer **would not be performing load balancing operations at all**.

Applicant submits that claim 1 as amended explicitly recites that the data requestor system is provided with a source list identifying each acquisition source available for provision of data. Both Mao and Shabtay fail to teach, suggest, or lead anyone of any skill in the art to or toward a method in which a *data requestor system* (e.g., a *set-top box* or a *client*) is provided with a source list that identifies each acquisition source available for the provision of data. Neither Mao nor Shabtay offer any teaching that would lead one of any skill in the art to or toward any recognition that a data requestor system even should be provided with a source list that identifies *acquisition sources* available for provision of data.

Applicant additionally submits that claim 1 as amended explicitly recites that a data request is received from the data requestor system at the RTMDOD server, where the data request includes data requestor system identification of a first acquisition source within the source list. Both Mao and Shabtay fail to teach, suggest, or lead anyone of any skill in the art to or toward a method in which a data request includes data requestor identification of a first acquisition source within a source list, where the source list identifies a set of acquisition sources from which data can be provided. *No such data request that includes data requestor identification of a first acquisition source within the set of acquisition sources can even be received from any data requestor system taught by Mao and/or Shabtay because data requestor systems in accordance with each of Mao and Shabtay remain blind with respect to the identity of any and all acquisition sources – data requestor systems in accordance with each of Mao and Shabtay are never provided with a source list that identifies a set of acquisition sources from which data can be provided.*

No combination of Mao and Shabtay results in the invention of claim 1 as amended.

Moreover, per Examiner's assertion that one of ordinary skill in the art would combine Shabtay with Mao to arrive at the claimed invention to thereby "efficiently select a source" such as a server, claim 1 as amended recites that a source list identifying a set of acquisition sources is provided to the data requestor, and that a data request received from the data requestor includes data requestor identification of a first acquisition source within the source list. Mao and Shabtay clearly teach that a) data requestors or clients are never provided with any type of source list identifying a set of acquisition sources from which data can be provided, and hence data requestors in Mao and Shabtay remain blind as to the identity of acquisition sources (e.g., the identity of a VOD gateway or a server); and b) a data request received from a data requestor (e.g., a set-top box or a client) does not include data requestor identification of a first data acquisition source (e.g., a first VOD gateway or a first server) within the source list. Altering Mao and/or Shabtay in a manner that would provide a data requestor system (e.g., a client) with a source list identifying a set of acquisition sources, and which would receive a data request from a data requestor system where the data request includes data requestor identification of a first acquisition source within the source list, would actually render Mao and Shabtay *less efficient*, in

stark contrast to Examiner's assertion that such a combination would "efficiently select a source."

For instance, concerning load balancers, Shabtay teaches the following beginning at paragraph 0004:

> "Many Web sites are hosted by a plurality of servers, because of the large number of clients accessing the Web site, the large volume of the information carried by the Web site and/or for redundancy purposes...A load balancer receives the packets directed to the Web site and forwards them to a respective server...Some load balancers select the server to which a packet is forwarded in a manner which distributes the packet load, substantially evenly..."

The subsequent teachings of Shabtay are directed to a load balancer, which needs to efficiently balance communication loads in networks involving large numbers of clients and/or large volumes of information.

Claim 1 as amended recites the following:

> providing to the data requestor system in response to the list request the source list identifying each acquisition source available for provision of data;
>
> receiving a data request from the data requestor system at the RTMDOD server, the data request including data requestor identification of a first acquisition source within the source list;
>
> transmitting a data acquisition request from the RTMDOD server to the first acquisition source in response to the data request; and

Any load balancer that would provide a source list identifying a set of acquisition sources to a data requestor system, and which would transmit a data acquisition request to a first acquisition source within the set of acquisition sources in response to a data request received from the data requestor system, where the data request includes data requestor identification of the first

acquisition source, would be an *inefficient* load balancer in a network environment involving large numbers of clients and/or large volumes of information. More accurately, any such load balancer would not be performing load balancing operations in accordance with *any* of Shabtay's tachings. Applicant submits that the combination of Mao and Shabtay teaches away from claim 1 as amended.

In view of the foregoing, Applicant submits that claim 1 as amended is nonobvious over Mao in view of Shabtay, and respectfully requests that the rejection of claim 1 under 35 U.S.C. 103(a) be withdrawn. Applicant further submits that claims 2 – 9 and 19, which depend upon amended claim 1, are nonobvious over Mao in view of Shabtay. Applicant correspondingly requests that the rejection of claims 2, 5 – 8, and 19 under 35 U.S.C. 103(a) be withdrawn.

Applicant has amended claim 10 in a manner analogous to claim 1. Applicant correspondingly submits that claim 10 as amended is nonobvious over Mao in view of Shabtay, and respectfully requests that the rejection of claim 10 under 35 U.S.C. 103(a) be withdrawn. Applicant further submits that claims 11 and 14 – 17, which depend upon claim 10, are nonobvious over Mao in view of Shabtay, and Applicant requests that the rejection of claims 11 and 14 – 17 under 25 U.S.C. 103(a) be withdrawn.

Rejections under 35 U.S.C 103(a) based upon Mao in view of
Shabtay and further in view of Kumar

In the Final Office Action, Examiner rejects pending claims 3, 4, 9, 12, 13, and 18 under 35 U.S.C 103(a) as being unpatentable over Mao in view of Shabtay, and further in view of U.S. Patent No. 7,188,151 (Kumar).

Applicant submits that claims 3, 4, and 9 depend upon amended claim 1; and claims 12, 13, and 18 depend upon amended claim 10. Applicant submits that Kumar fails to remedy any deficiencies described above with respect to Mao and Shabtay concerning amended claim 1 and amended claim 10. Applicant further submits that no combination of Mao, Shabtay, and/or Kumar results in the invention of amended claims 1 and 10. Applicant submits that claims 3, 4,

9, 12, 13, and 18 are nonobvious over Mao, Shabtay, and Kumar, and requests that the rejection of claims 3, 4, 9, 12, 13, and 18 under 35 U.S.C. 103(a) be withdrawn.

Rejections under 35 U.S.C 103(a) based upon Mao in view of

Shabtay and further in view of Bakshi

In the Final Office Action, Examiner rejects pending claims 20 - 24 under 35 U.S.C 103(a) as being unpatentable over Mao in view of Shabtay, and further in view of U.S. Patent No. 6,574,663 (Bakshi).

Applicant submits that claims 20 – 24 directly or indirectly depend upon amended claim 1. Applicant submits that Bakshi fails to remedy any deficiencies described above with respect to Mao and Shabtay concerning amended claim 1. Applicant further submits that no combination of Mao, Shabtay, and/or Bakshi results in the invention of amended claim 1. Applicant submits that claims 20 – 24 are nonobvious over Mao, Shabtay, and Bakshi, and requests that the rejection of claims 20 – 24 under 35 U.S.C. 103(a) be withdrawn.

Conclusion

In accordance with the foregoing remarks, Applicant respectfully submits that no combination of Mao, Shabtay, Kumar, and/or Bakshi results in or leads to or toward the invention recited by independent claims 1 and 10 or their corresponding dependent claims.

Therefore Applicant requests withdrawal of rejections of pending claims 1 to 24 under 35 U.S.C. § 103(a). Examiner reconsideration and issuance of a Notice of Allowance are hereby respectfully requested.

It is believed that a two (2) month extension of time and corresponding fee is required, in addition to the RCE fee indicated in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Conley Rose, P.C.'s Deposit Account Number 03-2769 (2085-04000).

Respectfully submitted,

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